



# CARES ACT

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## ***CARES ACT RELIEF FOR Small business, Charitable Organizations and the Self-Employed***

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# AGENDA

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CARES Act

Keeping American Workers Paid and Employed Act

- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loan (EIDL) and Emergency Advance

Filing a Loan Application

Additional Resources

# CARES ACT – Overview & Key Provisions

Coronavirus Aid, Relief and Economic Security Act (“Cares Act”) became law March 27, 2020;  
Amended April 23, 2020

- \$2.5 Trillion for individuals, small business, non-profits, large corporations
- ***Paycheck Protection Program***
  - \$349B in *forgivable loans to small businesses and certain non-profits* (<500 employees)
  - Quickly depleted; Banks stopped taking applications April 16, 2020
  - Added \$310B to replenish the program; \$60B allocated to credit unions; community banks
- ***EIDL***
  - \$10B for *low interest* disaster relief loans; Also quickly depleted
  - Added \$10B to replenish program
  - Includes Emergency Grant program

Programs administered by SBA; PPP loans processed and serviced by banks

Aid in the form of a Loan -- *critical to understand eligibility, terms & conditions, forgiveness*

SBA updating and expanding FAQs on website -- critical to remain up to date on new developments

# Paycheck Protection Program

- PPP loans are made through banks (***including community banks***), credit unions and other lenders who partner with the SBA.
- The SBA guarantees part of the loan; thereby removing risk from banks
- *How it works: you apply to bank; bank forwards to SBA for approval (limited review in this case); SBA sends funds to Bank; Bank funds and services the loan*
- ***Time Period: Borrowers may apply between now and June 30, 2020***
- ***Applications are being processed on a first come, first served basis***
- ***Need to act expeditiously to complete application and file paperwork***
  - ***Consider any existing bank relationships and community bank lenders***

# Paycheck Protection Program

## Who is eligible:

- US Small businesses, sole proprietors and 501(c)(3) ***non-profits*** with ***up to 500 employees*** that were **in operation prior to February 15, 2020**
  - Other programs for 501(c)(4) and 501(c)(6) organizations
- Principal place of employee residence is in US
- Employee count can include ***full-time, part-time or other hires – full time equivalents***

From the application form ↓ - check which applies

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Check One: ☐ Sole proprietor ☐ Partnership ☐ C-Corp ☐ S-Corp ☐ LLC  
☐ Independent contractor ☐ Eligible self-employed individual  
☐ 501(c)(3) nonprofit ☐ 501(c)(19) veterans organization  
☐ Tribal business (sec. 31(b)(2)(C) of Small Business Act) ☐ Other



# Paycheck Protection Program

- **Borrower good-faith certification that:**
  - Loan necessary due to current economic conditions caused by COVID-19,
  - Use funds to retain workers and maintain payroll; make lease and utility payments
  - Not receiving duplicative funds for the same uses under another SBA program
- **From the application form ↓**

## CERTIFICATIONS

The authorized representative of the Applicant must certify in good faith to all of the below by **initialing** next to each one:

☐

The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

☐

Current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.

☐

- **Borrower signatory: “Authorized Representative of Applicant”**
  - **Examine by-laws to determine authority; consider board approval**
  - **Executive Director or Senior Officer to sign/authorize**
- **Non-profits do not need to provide any loan guarantees or list “owners”**

# Paycheck Protection Program

## General Terms & Conditions

- Maturity: 2 years (no prepayment penalty)
- Interest Rate: 1% Fixed (i.e. not floating)
- No requirement for collateral or personal guarantee
- Payment deferment at least six and up to 12 months

## Calculation of Loan Amount

- **2.5 multiplied by Avg. Monthly Payroll during 1 year before loan is made**
  - **Up to \$10MM**
- Payroll costs include: wages, severance, health care, sick pay, retirement & state/local income tax
- Excludes any individual wages >\$100K
- Does not include individuals w/ principal residence outside the US

From the application form ↓

Average Monthly Payroll:	\$	x 2.5 + EIDL, Net of Advance (if Applicable) Equals Loan Request:	\$	Number of Employees:	
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# Paycheck Protection Program

## Loan Forgiveness: *loan becomes a grant*

- Up to 100% of amount used for payroll costs, rent, utilities and interest on pre Feb 15 debt
- **Must be used at least 75% for payroll costs**
- Applies to loan period – *actual use of funds; can only forgive up to amount spent*
- Forgiven loan amounts (cancelled indebtedness) are *not income* for tax purposes

## Limitation

- **Amount of forgiveness may be reduced by reduction in employees and/or wages**
  - You have until June 30, 2020 to restore full time employment and salary levels for changes made between Feb 15, 2020 and April 26, 2020
  - Payroll costs for *cash compensation* above \$100,000 are not eligible for loan forgiveness

**Requests for forgiveness are submitted to lender that is servicing the loan, including documents to verify wages and expenses**



# Paycheck Protection Program

## Application Process:

- Borrower submits application to ***approved lender***  
(<https://www.sba.gov/document/sba-form--paycheckprotection-program-ppp-sample-application-form>)
- Documentation sufficient to demonstrate
  - Average monthly payroll; number of full time equivalent employees
  - Retirement contributions, sick pay, wages
  - Rent, utilities and other permitted expenses

***NB: will need to retain documentation as to spending and utilization of loan to establish any subsequent amount of loan forgiveness***

***May be useful to keep funds in a separate bank account to track usage***

# CARES ACT - Economic Injury Disaster Loans

## General Terms & Conditions

- EIDLs are loans of up to \$2 million with interest rates of 3.75% for for-profit companies and 2.75% for non-profits
  - Interest rate and terms based on *ability to repay*
- EIDLs and emergency grants related to COVID-19 are provided directly by the SBA. The streamlined COVID-19 EIDL application is available on the SBA website
- Funds may be used for general business purposes
- Interest and principal deferment for 12 months
- Term – up to 30 years
- No up-front fees or pre-payment penalty
- **Covered period:** Beginning January 31, 2020 and ending December 31, 2020
- See links to apply on slide #15

# CARES ACT – Emergency Grants

## \$10 billion grant program under the SBA's Office of Disaster Assistance

- Nonprofits can receive up to a \$10,000 emergency advance within 3 days after applying for an Emergency Economic Injury Disaster Loan (EIDL)
  - *Capped at \$1,000 per employee*
- Covers immediate payroll, mortgage, rent and other specified operating expenses
- Available until December 31, 2020
- Eligible non-profits include 501(c) trade associations, advocacy organizations, unions and social clubs, otherwise excluded from Paycheck Protection Program
- **The grant does not have to be repaid, even if the EIDL application is denied**
- ***However, if you receive a PPP loan, the amount of EIDL grant is subtracted from the forgiveness amount***

# Some Commonly Asked Questions

- Q: Should payments that an eligible borrower made to an independent contractor or sole proprietor be included in calculations of the eligible borrower's payroll costs?
- A: No. Any amounts that an eligible borrower has paid to an independent contractor or sole proprietor should be excluded from the eligible business's payroll costs. However, an independent contractor or sole proprietor will itself be eligible for a loan under the PPP, if it satisfies the applicable requirements.
- Q: May lenders accept signatures from a single individual who is authorized to sign on behalf of the borrower?
- A: Yes. However, the borrower should bear in mind that, as the Borrower Application Form indicates, only an authorized representative of the business seeking a loan may sign on behalf of the business. An individual's signature as an "Authorized Representative of Applicant" is a representation to the lender and to the U.S. government that the signer is authorized to make the certifications.



# Some Commonly Asked Questions

- Q: Does a lender need to replicate/confirm every borrower's calculations to establish loan amount?
- A: No. Providing an accurate calculation of payroll costs is the responsibility of the borrower, and the borrower must attest to the accuracy of those calculations. Lenders are expected to perform a good faith review, in a reasonable time, of the borrower's calculations and supporting documents concerning average monthly payroll cost.
- Q: Can a sole practitioner with no employees be able to qualify for a loan under Payroll Protection Program loan?
- A: Yes.
- Q: What if you work from home, can you pay mortgage, utilities?
- A: Only to the extent that they are business expenses.

# Making a Loan Application

Where to go to apply

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>

For Paycheck Protection Program

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

For EIDL Emergency Advance

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>

# Additional Resources for Support

## **Volunteer Lawyers for the Arts**

<https://vlany.org/coronavirus-covid-19-resources/>

## **Most Active SBA Lenders through 2019**

<https://www.sba.gov/article/2020/mar/02/100-most-active-sba-7a-lenders>

## **FAQ**

[https://www.sba.gov/sites/default/files/2020-04/Final%20PPP%20FAQs%20for%20Lenders%20and%20Borrowers%204-8-20\\_0.pdf](https://www.sba.gov/sites/default/files/2020-04/Final%20PPP%20FAQs%20for%20Lenders%20and%20Borrowers%204-8-20_0.pdf)



# THANK YOU

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